

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

Criminal No. 5:18-CR-54-FL  
Civil No. 5:21-CV-157-FL

DEVONTA OZELL SMITH,	)	
	)	
Petitioner,	)	
	)	
v.	)	MOTION FOR DISMISSAL
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

Respondent, by and through the United States Attorney for the Eastern District of North Carolina, respectfully moves this Court to dismiss Petitioner's 28 U.S.C. § 2255 motion [D.E. 84, 84-1] pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted.

A memorandum of law in support is being filed contemporaneously with this motion.

Respectfully submitted this 4th day of August 2021.

G. NORMAN ACKER, III  
Acting United States Attorney

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**CERTIFICATE OF SERVICE**

I do hereby certify that I will serve a copy of the foregoing on August 4, 2021, upon the below-listed party or parties electronically using the CM/ECF system or by placing a copy of the same in the U.S. Mail, addressed as follows:

Devonta Ozell Smith  
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